

PATENT
Attorney Docket No. 102.0001-12000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No.: 4978
Gary Karlin Michelson)
Serial No.: 10/740,747) Group Art Unit: 3738
Filed: December 19, 2003)
For: SPINAL IMPLANT FOR INSERTION)
BETWEEN VERTEBRAL BODIES)

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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SEP 10 2004

Sir:

SECOND REQUEST FOR INTERFERENCE UNDER 37 C.F.R. § 1.604

Applicant hereby requests an interference with U.S. Application No. 10/404,515 (U.S. Publication No. 2003/0187454) to Gill et al. (hereinafter, "Gill") pursuant to 37 C.F.R. § 1.604(a). A proposed count is attached hereto.

Claims 1, 2, 5, and 7 of Gill correspond to claims 1-4, respectively, of the proposed count. Claims 2-5 of the present application correspond to claims 1-4 of the proposed count.

Applicant requests an interference with Gill because the aforementioned claims of Gill cover subject matter which was invented by Applicant prior to the earliest priority date of Gill.

Applicant submits that the subject matter of claims 1-4 of the proposed count are fully supported by Applicant's original disclosure, for example, on page 16, lines 14-29; and Figs. 4c and 4d. The Examiner is requested to declare an interference between the present application and U.S. Application No. 10/404,515.

Second Request for Interference 9-10-04

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 10, 2004

By: 

Thomas H. Martin

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PROPOSED COUNT UNDER 37 C.F.R. § 1.604(a)(1)

1. A tool for use in implanting an intervertebral joint prosthesis, comprising:
an elongated handle portion;
a prosthesis engaging portion connected to said handle portion for holding the prosthesis; and
means connected to said prosthesis engaging portion for retaining the prosthesis in engagement with said prosthesis engaging portion.
2. The tool of claim 1, wherein said prosthesis engaging portion further includes a plurality of apertures.
3. The tool of claim 2, wherein said prosthesis engaging portion includes a prosthesis engaging surface for maintaining the prosthesis in a predetermined orientation.
4. The tool of claim 3, wherein said prosthesis engaging surface includes a flange.

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Sir:

THIRD REQUEST FOR INTERFERENCE UNDER 37 C.F.R. § 1.604

Applicant hereby requests an interference with U.S. Application No. 10/644,252 (U.S. Publication No. 2004/0097928) to Zdeblick et al. (hereinafter, "Zdeblick") pursuant to 37 C.F.R. § 1.604(a). A proposed count is attached hereto.

Claims 44 and 46-48 of Zdeblick correspond to claims 1-4, respectively, of the proposed count. Claims 6-9 of the present application correspond to claims 1-4 of the proposed count.

Applicant requests an interference with Zdeblick because the aforementioned claims of Zdeblick cover subject matter which was invented by Applicant prior to the earliest priority date of Zdeblick.

Applicant submits that the subject matter of claims 1-4 of the proposed count are fully supported by Applicant's original disclosure, for example, on page 8, line 25 to page 9, line 3; page 12, lines 18-23; and Fig. 4A. The Examiner is requested to declare an interference between the present application and U.S. Application No. 10/644,252.

Third Request for Interference 9-10-04

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 10, 2004

By: 

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PROPOSED COUNT UNDER 37 C.F.R. § 1.604(a)(1)

1. A fusion device for facilitating arthrodesis in a disc space between adjacent vertebrae, comprising:
an elongate body having a length and including a pair of oppositely disposed arcuate side walls extending along said length and adapted for engagement with the adjacent vertebrae, said arcuate side walls defining external threads extending substantially entirely along said length, said elongate body at least partially formed of a porous biocompatible material to permit bone tissue ingrowth into said arcuate side walls.
2. The fusion device of claim 1, wherein said elongate body has a hollow interior and at least one opening in communication with said hollow interior.
3. The fusion device according to claim 2, further comprising a bone growth inducing material disposed within said hollow interior.
4. The fusion device of claim 2, wherein said at least one opening extends through a corresponding one of said arcuate side walls.